

SIXTH DAY.

SENATE CHAMBER,
AUSTIN, TEXAS, JUNE 16, 1879. }

Senate met pursuant to adjournment; president in the chair. Roll called; quorum present. Prayer by Rev. E. B. Wright.

On motion of Senator Moore, the reading of the journals of Saturday was dispensed with.

Senator Storey, chairman of committee on finance, submitted the following reports:

COMMITTEE ROOM, AUSTIN, JUNE 14, 1879.

Hon. J. D. Sayers, President of the Senate:

Your finance committee have had under consideration the printed petition of numerous citizens of the city of Huntsville, who, "having the welfare of the whole people of the state at heart, do most respectfully petition the Legislature to repeal the drummers' tax enacted at the last session of the Legislature," and I am instructed by the committee to recommend that the petition be not granted for the reason—

1. The committee do not believe that the legislation desired by the petitioners is enumerated in the subjects named by the governor's proclamation convening the extra session of the Legislature.

2. The committee do not believe that a rigid enforcement of the law will either decrease the number of drummers or in any way injure the people of Texas.

STOREY, *Chairman.*

Report of the committee was adopted.

COMMITTEE ROOM, AUSTIN, JUNE 16, 1879.

Hon. J. D. Sayers, President of the Senate:

Your committee on finance have had under consideration Senate bill No. 20, "An act to amend articles 1058 and 1059 of the Code of Criminal Procedure of the State of Texas, adopted at the regular session of the Sixteenth Legislature," and I am instructed to report the bill to the Senate with the following amendment, viz: Strike out "sub-division 3" of article 1058, and insert the following: "3. The name and number of the defendants, and, if more than one, whether they were tried jointly or separately, and what disposition had been made of the case," and to recommend that the bill as amended do pass. I am further directed to ask that the bill and amendments be printed.

STOREY, *Chairman.*

The bill just reported was read first time, and, on motion of Senator Storey, fifty copies of the bill and report were ordered printed.

COMMITTEE ROOM, AUSTIN, JUNE 16, 1879.

Hon. J. D. Sayers, President of the Senate:

Your committee on finance have had under consideration Senate bill No. 19, "An act to amend articles 4746, 4747 and 4748 of an act entitled 'an act to adopt and establish the Revised Civil Statutes of the State of Texas,' passed at the regular session of the Sixteenth Legislature." The committee has added the imperative public necessity clause, and I am instructed to recommend that the bill as amended do pass.

STOREY, *Chairman.*

COMMITTEE ROOM, AUSTIN, JUNE 16, 1879.

Hon. J. D. Sayers, President of the Senate:

Your committee on finance have had under consideration Senate bill No. 1, a bill to be entitled "An act to make an appropriation to pay the interest on the public debt for the years ending February 29, A. D. 1880, and February 28, 1881;" and I am instructed by a majority of the committee to report as a substitute therefor a bill to be entitled "An act to make an appropriation to pay the interest on the public debt due July 1, 1879," and to recommend its immediate passage.

STOREY, *Chairman.*

Bill just reported and read first time.

COMMITTEE ROOM, AUSTIN, JUNE 16, 1879.

Hon. J. D. Sayers, President of the Senate:

Your committee on finance, to whom was referred Senate bill No. 24, entitled "An act to amend 'an act amending article 3720 of the Revised Civil Statutes,' approved April 29, 1879," have duly considered the same, and I am instructed by the committee to report the bill back to the Senate with the recommendation that it pass, and that fifty copies of the bill be printed for the use of the Senate.

STOREY, *Chairman.*

The bill just reported was read first time, and on motion of Senator Storey fifty copies were ordered printed.

Senator Terrell, chairman of judiciary committee No. 1, submitted the following report:

COMMITTEE ROOM, AUSTIN, JUNE 16, 1879.

Hon. J. D. Sayers, President of the Senate:

Your judiciary committee No. 1, to whom was referred a bill to be entitled "An act to amend 'an act to adopt and establish the Revised Civil Statutes of the State of Texas,' passed February 21, 1879," have carefully considered the same, and instruct me to report the same back and recommend that it do pass.

TERRELL, *Chairman.*

The bill just reported was read first time, and on motion of Senator Swain fifty copies were ordered printed.

The following message and documents were received from his excellency the governor:

EXECUTIVE OFFICE, STATE OF TEXAS, }
AUSTIN, June 16, 1879. }

To the honorable Senate and House of Representatives in Legislature assembled:

In addition to the heads of legislative action pointed out in my message of the tenth instant, there are some others, which, like many of those then mentioned, if acted on, might facilitate the better administration of the government on the subjects to which they relate, and with that view they are herewith respectfully submitted to your consideration:

ADDITIONAL SUBJECTS OF LEGISLATION.

40. A law permitting both civil and criminal jurisdiction to be transferred from the county to district courts in any of the counties, and where such has been or may be done, to provide how former judgments and proceedings shall be transferred or executed.

41. An amendment of the law for the collection of taxes, so as to require tax collectors to force the collection of taxes during the time of the year that the people generally have most money to pay them before the first of March in each year.

42. An amendment of the law passed by the Sixteenth Legislature relating to the penitentiaries, declaring for what purpose buildings within the walls of the penitentiary at Rusk shall be erected, together with their quality.

43. An amendment of the quarantine law, so as to allow guards to be appointed and employed by the governor, upon recommendation of the state health officer, at certain channels and other places which are not under the control, or not convenient to any local board of health, to be subject to the directions of the state health officer as to their duties.

44. An amendment of law relating to the proceedings in the land office, and the issuing of patents and requiring parties to pay for patents when issued, and also to authorize patents to be delivered where the money for them was deposited, in pursuance to law with the former commissioner, but which is not now to be found there, and has not been accounted for by one of his predecessors, as shown in the report submitted by Capt. Walsh, commissioner of general land office.

45. Amendment of bell-punch law in respect to the appropriation, and to define its application to druggists, if deemed doubtful.

46. A law for the postponement of taxes for a few months, as requested by petitioners of Smith county, should the Legislature deem proper.

ADDITIONAL APPROPRIATIONS.

In examining the regular appropriation act passed at the regular session of the Sixteenth Legislature, with the Hon. S. H. Darden, the comptroller of the state, it was concluded that the following additional appropriations would be proper if the Legislature should see fit to make them:

COMPTROLLER'S OFFICE,

Additional clerk force for extra work under laws of Sixteenth Legislature relating to assessing and collecting taxes in unorganized counties, and the collection of taxes from non-residents in unorganized counties.....	\$10,000
Furniture necessary.....	250
Repairs to building to make it secure.....	250

ADJUTANT GENERAL'S OFFICE.

Increased pay of clerk.....	600
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JUDICIARY DEPARTMENT.

Fees of sheriffs, clerks, attorneys, etc.....	60,000
Librarian for supreme court at Austin.....	300
Special district and supreme judges.....	7,000

DEPARTMENT OF INSURANCE, STATISTICS AND HISTORY.

Increase so as to have two clerks (one for state library).....	500
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TREASURY DEPARTMENT.

For repairs and contingent.....	150
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TREASURY AND COMPTROLLER'S OFFICES.

Increase of salary of porter per year (now \$300).....	180
Presidential electors in 1880.....	800
Rewards and expenses by the state in recovery of fugitives.....	5,000
Compensation of agent to sell bonds.....	1,000
For engraving bonds (will cost \$10,000, only \$5000 appropriated)	5,000

\$91,030

ADDITIONAL APPROPRIATIONS TO THE DEFICIENCY ACT.

Sheriffs, clerks and attorneys, already ascertained.....	75,000
Conveying prisoners to penitentiary.....	40,000
	\$115,000

There should be an appropriation of \$30,000, as was made in 1876, to be used on condition that it became necessary, from any cause, for the state to take charge of and provide for the convicts of the penitentiary instead of the lessees.

It is respectfully submitted that wherever certain fees to officers and other expenses are prescribed by statutes, and not limited by the specific amount appropriated in the act, it is very important that a sufficient appropriation should be made in advance, otherwise the claims are generally sold as "O K" accounts, although there might be money in the treasury to pay them when presented, and thereby the holders sustain a loss, without any advantage to the state. And in such cases the amount expressed in the appropriation act neither increases or diminishes the real amount of expenses. The special appropriation for the purchase of the bell punches being \$10,000, should be amended so that the amounts received from the sale of them should be returned to that appropriation, so far as it may be necessary, and not all go to the revenue; otherwise, it will be deficient as estimated about \$5000.

The special appropriation of \$500 out of the sale of capitol lands to pay an architect should, it is believed, be increased at least \$1500, because it should be done by a first-class architect, and it should contain full specifications and designs of all parts of the building, with the estimated cost of it, to furnish a guide, not only in making the contract for the building, but also for the full and correct performance of the work by the contractors according to the contract that may be made.

I beg leave again to call your attention to the necessity of making some additional appropriations, should you see proper, to the several state institutions, which is shown by the respective reports accompanying the message the 10th of this month. The amounts necessary to be appropriated, consistently with our ability, I have not assumed to estimate, but must leave to the careful scrutiny of the Legislature, after they shall examine said reports. It will certainly be found that something should be given to each one in order to make it answer the purpose of its institution. It is easily understood that a small additional aid might greatly perfect the operations of these institutions. For instance, the Agricultural and Mechanical College (upon which the state has spent in its erection \$180,000, and much more has been spent by the profits of its good management) has not been furnished by the state with a library and apparatus, etc., for the benefit of the scholars. Now, a college without these is grossly incomplete, and a small appropriation for that and other purposes would greatly increase the benefit of the large amount already bestowed upon it. So in the case of the Lunatic Asylum, there is a building completed which would enable the superintendent to receive fifty more inmates, if there was a small appropriation to fit it up and support and take care of that many more. And similar facts relate to all of the other state institutions.

I did not submit any report about the Sam Houston Normal School at Huntsville, because there was no one who was authorized to make a report.

With a view to obtain information for the use of the Legislature, I requested three gentlemen of Huntsville of well known respectability and capacity to act as a voluntary committee to inspect and report upon the buildings, so as to show what might be necessary to fit up the institution as designed by the Legislature. I herewith submit their report, which I am confident may be relied on, in which they show a necessity for an appropriation of fifteen hundred dollars. I respectfully submit it for your consideration. Another matter connected with this institution is that the citizens of Huntsville will not be able to make a complete legal and equitable title to the property within the sixty days as required by the state, nor indeed until after the meeting of the Methodist conference in November next, for which the property is held in trust, as shown by the deeds submitted to the attorney general and myself. I entertain no doubt but that it will be done, and recommend an extension of time within which they may be allowed to perfect the title.

You will see by the report of President Gathright that a small appropriation will be needed to put the Normal School at Prairie View for colored pupils in proper condition to receive and support the pupils as provided and designed by the Legislature. The importance of these normal schools as a necessary incident to an efficient system of public free schools in this state cannot, as I think, be well overestimated. They are simply indispensable in the effort gradually to attain that desirable object. They learn teachers the best modes of teaching by a regular system. Any one who will visit the public free schools in the city of Houston, under the management of Professor Smith, will be made to understand the great benefit in our common schools of teaching teachers how to teach a common school, and from which the conclusion will be reached that no efficient system can ever be attained in Texas, whatever else may be done, without the aid of normal schools. I regard it as the first step in the right direction, which, if persisted in, will above all else, to the extent of its expense, aid in the consummation of the final success of the undertaking to establish a system.

In explanation of part of item 44, in the heads upon legislation submitted to you, about money deposited for patents not found there now, I respectfully submit to you the report of the present commissioner of the general land office, Hon. W. C. Walsh, on that subject, and for other parts of it refer to the report already sent.

Under the tenth head of subjects for legislation, I respectfully call your attention to the fact that there is now a controversy going on between the newly organized county of Wheeler and the county of Clay, to which its territory has heretofore been attached for judicial purposes, as to which set of officers shall collect the taxes, the profits of collection, as well as the benefit of the county tax, being doubtless the ground of controversy. Other counties preparing to organize will soon be in the same controversy. Another cause of trouble which should be removed by legislative action arises out of the necessity of holding district courts in counties organized at a great distance from other counties where courts are held, and when organized there being no law prescribing any time for holding their courts. For information on these subjects I respectfully refer you to a letter intended to give information to the Legislature from the county attorney of Wheeler county, which is herewith submitted, showing that a petition will be submitted to you, asking relief on those matters.

I would respectfully suggest that there is great danger, under the present law for organizing new counties, of an evil arising in two ways. First, that it will be organized by persons who are not permanently settled, for speculative purposes, when it should not be organized; and second, when there are enough of settlers to organize a county, but extraneous influences are brought to bear, either there or in the county to which it judicially belongs, to prevent the organization. It is to the interest of the state that the county should be organized when there are the proper number of actual *bona fide* settlers on the soil who have fixed permanent homes in the county limits, but the very reverse if there are not such settlers. The whole matter of organization is taken out of executive control by the present laws. And a very strong reason why the law should be changed and even subjected entirely to the action of the Legislature when in session, is that as now illustrated in the case of Wheeler county, when the county is organized, when the Legislature is not in session there is no time fixed by law, and cannot be until the succeeding session of the Legislature, for holding its district courts, and none can be held. This, then, is a matter of such increasing importance that I respectfully ask for it your favorable consideration. And that more light may be thrown upon this subject to those not familiar with it, I respectfully submit for your consideration a letter in the nature of a protest against the organization of Wheeler county, addressed to me as governor, by the general agent of the Texas Land company.

I respectfully submit for your consideration the petition of citizens of Smith county for postponement, for a few months, of collection of taxes, stating the reason of present embarrassment, and ask for it a favorable consideration, as a compliance with their wishes may facilitate rather than retard the collection of taxes due for 1877 and 1878, still not collected.

The additional appropriations requested to be added to the appropriation for current expenses of the year, estimated at \$91,030, is asked to prevent a deficiency appropriation on those items the next session and to provide for the issuing of warrants to cover the estimated expenses. If the items are examined it will be found that some of them will not apply to the second year, and therefore need not be included in the additional appropriation for the years 1880 and 1881. For instance, the additional appropriation asked for the engraving of the bonds is only temporary, and arises out of the fact that it has been ascertained that the engraving of the bonds of the denominations of \$1000 and of \$100 will cost \$3500, and those of the denominations of \$10 and of \$5 will cost \$7000, making in all \$10,500, and there was only \$5000 appropriated for engraving all of them. An inferior engraving of the smallest bonds can be procured for \$5500. Those of the larger denominations of \$1000 and \$100 have been ordered, and are being engraved, and arrangements have been made for the engraving of those of the smaller denominations as soon as an additional appropriation is made for that purpose.

There is also a needed item of appropriation of at least \$300 to pay the guard or custodian of the East Texas Penitentiary, who has been employed since the 7th day of March last, at \$50 per month, in pursuance to an act of the Sixteenth Legislature; and in reference to the improvements of that penitentiary, so as to fit it for convicts as soon as practicable, it has been ascertained by an examination and estimation of the architect and engineer appointed for that purpose, that with the \$60,000 appropriated for it in each year for two years, the walls and

grading can be completed and buildings for shops and other purposes erected within the wall to a great extent, if not entirely sufficient. The architect has drawings and estimates to exhibit these results. But the character of said buildings should depend largely upon the work that is designed to be done within the walls. The penitentiary was located there, as indicated by the act of the Legislature, for making iron. There being no coal in that region, and the iron ore being, so far as known, mainly surface ore, it might not be profitable to undertake more than to establish a forge for castings, plows and other things needed in that penitentiary for use in other employments that may be adopted. That locality is well adapted to manufacturing leather and those things that are made of leather; and it is well adapted to spinning and weaving cotton fabrics, and also for making wagons and other implements of husbandry.

It is of the first importance in this matter that the Legislature should at this session indicate by an act the employments to be adopted in said penitentiary, as the only indication that has heretofore been made has reference only to the manufacture of iron. By doing so, the board will be enabled to proceed to advertise at once for a contract for building houses and other necessary structures to the extent of the \$120,000 appropriation, as well as for erecting the wall and grading the space within it, which has already been done, though the contract for that has not yet been made.

I beg leave to call your attention to an act of the Legislature passed on the thirteenth of May, 1871, entitled "An act to incorporate the Galveston Medical College and Asylum," in which the state assumed to pay for attention to a certain class of our citizens not residents of Galveston county, in a hospital at Galveston, the expenses incurred not exceeding five thousand dollars per annum. I am informed by Dr. T. J. Heard, one of the professors of said college, that arrangements have been made which will throw this expense, or so much as may be incurred under said act, upon the state treasury for payment, which, if upon examination it is found to be a continuing obligation on the state, as the act imports, will require an annual additional appropriation of \$5000. I respectfully submit the communication of Dr. T. J. Heard on this subject, with the accompanying copy of the law to which it refers, for your consideration.

I have asked for an additional appropriation of \$5000 for rewards and the expenses of recovering fugitives, and the employment of attorneys to represent the state. I have, from that appropriation, employed Mr. Samuel Wilson at a very reasonable fee, to attend to the Mercer colony suit in the federal court in Travis county, and as the case will most probably be carried to the supreme court of the United States, however it may be decided here, another fee will have to be given for its defense there. I have also employed Messrs. Sneed and Sheeks to continue their services in the land fraud cases, in the district court of Travis county, at a very reasonable fee for the conviction of each person, and not for each conviction against the same person. These fees will not probably amount to more than \$3000 in the two years, which will leave \$13,500 annually for rewards and expenses in recovering fugitives from justice, which it is believed will average an expense of \$250 in each case. At that rate the amount appropriated will reclaim only fifty-four or fifty-five fugitives from justice per annum. And to reduce it to that amount,

I have, since an appropriation has been made, given a reward to the extent of actual expenses and reasonable pay for the time occupied by the person who may go after the party charged, presented in an itemized account, sworn to.

In order to prevent the money of the state from being uselessly spent, I have endeavored to carry out two measures of precaution: *First*—To ascertain that the escaped party can probably be convicted, if brought back; *and second*—To ascertain if there is a good bail bond or recognizance that binds sureties for his appearance, and in that event I furnish to the sureties a requisition to bring him back without expense to the state. Acting on these as general rules, to which there will be exceptions from circumstances that cannot be foreseen and detailed in advance, much money may be saved to the state, and that which is used will have practical effect.

Since the appropriation has been made numerous requisitions have been issued, and persons have already been brought from other states under them, and convicted of capital and other felonies. Almost every day information is received from a distance of the locality of persons who have escaped, showing that the number is very large; and if any considerable number of them are desired brought back, there should be an increase of the appropriation. The bringing of them back and convicting them, especially in offenses of a high grade, has a most salutary effect, and it should be our effort to bring every one of them back, as long as there continues to exist any reasonable probability of their conviction. The increase of the appropriation will not increase the necessity of its use, but if necessary to be used, as I believe it will, it will afford a prompt payment to those who will render the state a most valuable service, and they will not be required to wait for a deficiency appropriation at the next session of the Legislature, which would be cause of great discouragement in rendering the service, and necessarily increase the amount for which any one could be procured to do it.

I have not made a recommendation of any specific amount to be devoted and appropriated for the support of public free schools, which includes an appropriation for the normal schools, and for the incidental expenses of the board of education, because I could not foresee what amounts, additional to those already made, would be made by the present session for current expenses, and in aid of the greater efficiency of the state institutions of charity and learning. But I do respectfully recommend that said estimated amounts for current expenses, and that reasonable amounts be appropriated to the Lunatic Asylum, the Deaf and Dumb, and Blind institutions of learning, to the two normal schools, and to the Agricultural and Mechanical College in the most economical way that may be found necessary to make them reasonably efficient, with reference to what has already been spent on them, so as to bring them to some degree of completeness in the performance of that for which they were designed. And though I have not assumed to state any such amounts as are necessary, I have furnished the data, in the shape of reports, that will enable the Legislature to exercise a sound practical judgment as to how much money can be profitably appropriated for such objects.

I further respectfully call attention to the previous appropriations, made during past years for the sinking fund, to pay the public debt, if it should be thought necessary to renew them to make them still binding

on the treasury, so that out of the incoming surplus revenue—if any there should be in the next two years—an amount should be, if practicable, invested in bonds to be destroyed, corresponding to the amount that should heretofore have been used as sinking fund for that purpose, but was used as revenue to pay current expenses and not reserved, as prescribed by the laws under which the bonds were issued, and by the appropriation act for which the money was set apart for that purpose. This would show our bond creditors that we act upon a settled policy to provide for and appropriate the sinking fund according to law, whenever the surplus revenue will permit it. From this appropriation would flow two desirable results, if our anticipations of increased revenue should be realized—first, it would increase confidence in our determination and ability to pay our debts, according to assumed obligations, and elevate our financial credit at home and abroad; and, second, we would buy in as many or more outstanding bonds of the state as we now issue, as necessary to pay \$200,000, the debt in the deficiency act of the Sixteenth Legislature, resulting in the fact that during this administration the bonded public debt would not be increased, and if, during that time, the balance of the deficiency debt, amounting, as now estimated, to \$208,000, for which warrants will be issued bearing four per cent. interest can be paid by the surplus revenue, that may accrue in the next two years, it should certainly be done, if practicable, and under the provisions of the act may be done, and thereby stop the interest on them. As to their merits as debts against the state, they stand as high as any other debts, and, indeed, have this precedence: that money collected from the taxes of 1878, designed in the due course of things for their payment, was held up in the treasury by their postponement in the deficiency appropriation act; and if that act had been passed to take effect on its passage warrants for them would have been issued to the amount of \$408,000, as now ascertained, and the money in the treasury on the seventh of this month, subject as revenue to be paid on debts amounting to \$243,000 would have been paid out to satisfy that amount of them, and there would on that day have been out still unpaid the sum of \$165,000, and no money in the treasury to pay them, only as it might come in. The consequence would have been had that postponement not taken place as stated, warrants would have sold at a heavy discount, from the date of the passage of that act in April last up to the present time, and with a prospect of continuing to do it, until the increase in the revenue, and the diminution of expenses, provided for by the Sixteenth Legislature, could have produced the result of making the current revenue received exceed the current disbursements for expenses the sum of \$165,000.

From this it is plain that the surplus now in the treasury has on it two demands of a high order in equity and fair dealing, one of which is to pay back the sinking fund that has been used to produce that surplus, and the other is the deficiency debt for which it was collected from the taxes of 1878, and to which it would, to the extent of the present surplus, have been paid, but for the postponement referred to.

Another obligation, under the constitution is, as far as practicable, to provide for the maintenance of public free schools, during the next two years out of the resources at command. The amounts required by the constitution to be annually appropriated to that purpose are the one dollar poll tax, estimated at \$125,000 each year, and the interest of the

state and railroad bonds belonging to its fund, amounting to \$184,124 80 per annum, which amounts to \$309,124 80, to which may be added a small amount that was not appropriated to the counties by the board of education last September, which amount will not be ascertained until a settlement of the books and accounts in the comptroller's office at the end of this fiscal year on the thirty-first of August next, which will be in time for the next apportionment of the school fund in September next.

To these amounts it is desirable to add, by an appropriation for each of the two years, enough of the revenue to keep up the schools to a reasonable standard of usefulness, so that there shall be no such discouragement as to produce a want of confidence that the state will continue the effort to build up an efficient system of public free schools whenever, by the sale of its lands, by the readjustment of our financial affairs on a sound, permanent basis, and the improvements in the regulation of them, that object can and will be accomplished.

In the following named years there were appropriations of the following specific amounts, and schools were taught each year as here indicated: 1873-4, appropriated \$519,800, school taught four months; 1874-5, appropriated \$513,925, school taught four months; 1875-6, appropriated \$505,400, time taught not reported.

These were the last appropriations of specific amounts; and though the scholastic population has increased since that time, the wages of teachers, as well as other employes of the government and officers, have decreased to conform to the monetary condition of the country.

I herewith respectfully submit for your consideration estimates of cash on hand, and of receipts of revenue and disbursements from the treasury for expenses of the government, prepared and certified to by the Hon. S. H. Darden, comptroller of public accounts, on and from the seventh day of this month (June, 1879) to the end of the next fiscal year, on the thirty-first day of August, 1880, being part of two fiscal years:

COMPTROLLER'S ESTIMATES.

Estimate of cash on hand, receipts and disbursements, from June 6, 1879, to August 31, 1880, no deductions for school fund being made from general revenue.

RECEIPTS.

1. Cash on hand June 7, 1879.....	\$450,935 00
2. Office fees for three months at \$5000 per month.....	15,000 00
3. Occupation taxes for June, July and August, 1879....	87,500 00
4. Collections to be made on assessments of 1878.....	200,000 00
5. Claims of sheriffs to be adjusted.....	230,699 64
6. Net collections as general revenue from assessments of 1879, one year occupation tax, office fees and taxes on lands in unorganized counties.....	1,655,000 00
Total.....	\$2,639,434 64
Deduct for school fund $\frac{1}{4}$ of \$87,500, \$200,000 and \$230,000, included above.....	129,375 00
Total for state revenue.....	\$2,509,759 64

DISBURSEMENTS.

1. Balance to be paid on current appropriation for the year ending February 28, 1880, \$227,000 having been paid to June 1, 1879.....	\$496,753. 00
2. Deficiency in current appropriation.....	91,530 00
3. Current expenses on appropriation for year ending February 28, 1881, from March 1, 1880—6 months.	311,961 00
4. Deficiency in last named appropriation from March 1, 1880, to August 31, 1880—6 months.....	40,765 00
5. July interest, 1879.....	157,912 75
6. September interest, 1879.....	26,470 00
7. Sinking fund for 1879 (regular).....	100,000 00
8. Back sinking fund due (estimated).....	200,000 00
9. January interest, 1880.....	157,713 75
10. March interest, 1880.....	26,000 00
11. July interest, 1880.....	157,713 75
12. September interest, 1880.....	26,470 00
13. Sinking fund, 1880.....	100,000 00
14. Deficiency appropriation for year ending February 28, 1879.....	523,000 00
15. Deficiency in above appropriation to meet unaudited debt.....	115,000 00
16. Expenses extra session Sixteenth Legislature.....	50,000 00
	\$2,581,289 25

SUMMARY STATEMENT.

Disbursements to August 31, 1880.....	2,581,289 25
Receipts	2,509,758 64

Deficiency in revenue August 31, 1880..... \$71,529 61

[NOTE.—Should we add to receipts \$200,000, proceeds of sale of deficiency bonds, there would be an excess of receipts over expenditures of \$128,470 39.]

This estimate of receipts and expenditures is made from the best data at hand, this date, June 7, 1879. STEPH. H. DARDEN, *Comptroller*.

To his excellency O. M. Roberts, governor.

In making an estimate to provide for all of these objects as their relative importance may demand, I most respectfully recommend that it be made with a view, if practicable, that upon a settlement of accounts at the end of the fiscal year ending the thirty-first of August, 1881, all these antecedent obligations shall have been satisfied, and that there be no outstanding debts for current expenses up to that time.

By that means the Legislature that meets in January, 1881, will be put in a situation to increase the school appropriation for 1880 and 1881 that you may now make, if the means at command can then be ascertained to justify it; or, if they do not chose to do that, they may find themselves in condition to diminish the taxes to carry on the government for all purposes below fifty cents on the one hundred dollars, which certainly should be done if practicable.

In making estimates of future increase of revenue upon new modes of taxation, it must never be lost sight of that the values produced in a country pay the taxes, and that whatever new devices may be invented,

at last, the permanent amount of taxes collected from year to year must depend upon the amount of property and industries permanently productive of values; and that, therefore, we must rely mainly upon the known results of the past, in estimating the unknown results of the future.

I respectfully submit, that the Legislature being now convened, some of the other subjects to which their attention has been called may be acted on with great benefit to the country, especially those relating to the collection of taxes, and other matters pertaining to the regular administration of the government.

O. M. ROBERTS, *Governor.*

LETTER OF HON. W. C. WALSH.

GENERAL LAND OFFICE, AUSTIN, TEXAS, June 11, 1879.

Hon. O. M. Roberts, Governor:

SIR—Permit me to call your attention to the fact that Emile Feus, receiver of the general land office, under the administration of Hon. Jacob Kuechler, was a defaulter to the amount of two thousand three hundred and twenty-three dollars. These funds were the property of parties who had business with this office and were deposited in his hands under the provisions of the act of November 10, 1866, which authorizes such deposits with the receiver.

This amount stands upon the books to the credit of the various depositors, but cannot be paid by the present receiver without rendering his accounts short to such an amount as he may so pay.

If possible, I would respectfully request that a committee of the Legislature be authorized to examine these accounts and make provision for their payment, either by appropriation or authority to present receiver to pay such amounts as they are called for from the present and future receipts of this office.

I have been unable to learn that any steps have ever been taken by the state to recover this amount from the estate of Mr Feus or his bondsmen.

Very respectfully, W. C. WALSH, *Commissioner.*

LETTER OF COUNTY ATTORNEY OF WHEELER COUNTY.

SWEETWATER, TEXAS, May 29, 1879.

To the Hon. W. P. Shannon, State Senator, Austin, Texas:

SIR—In compliance with your instructions in letter to W. M. McKaney, dated May 15, we placed in circulation in several parts of the Pan Handle country, a petition to the Legislature for a judicial and land district; to consist of the counties comprising the Pan Handle of Texas.

There are many urgent and imperative reasons for the welfare of this section why this should be done.

First, the county of Wheeler is just organized and the county officers sworn in, and we are now capable of disposing of civil and criminal matters within the jurisdiction of a county court on all matters of that kind within the boundary lines of Wheeler county; but we have no jurisdiction over felonies, as the trial of that species of crime still belongs to Clay county, whose county seat, Henrietta, is not less by the nearest road measurement, than 225 miles from here, across a country entirely barren of population, and likely to be subject to Indian foray for many years. The Indians have killed one man on this route, near Belcher's ranche, within the last six weeks. It is easy to understand that it is next to impossible to punish a man by a court in Clay county, for a felony committed here. The result is that we can punish a man for

a misdemeanor, but if he commits a felony he is liable to escape punishment, for the reason that witnesses can hardly be compelled to attend a case, with its numerous continuances, at a distance of 225 miles.

A man may therefore assault another with his fists and be arrested and fined; whereas, if he shoots at him or kills him, no punishment is awarded; or he may steal nineteen dollars and he will be imprisoned; but if he steals twenty-one dollars we have no court within reach to punish him. A man may lose a horse by theft worth fifty dollars, but it will cost him more than double the value of the animal to have the thief convicted and sentenced.

But the unorganized counties outside of Wheeler do not enjoy the privilege of courts for petty offenders, or suits for small amounts.

Your experience on the frontier no doubt teaches you that this inadequate administration of law will soon result in mob violence, which is more to be dreaded than even a military despotism. The state legislature can therefore remedy this evil by giving us a district court in Wheeler county, and attaching to it a jurisdiction over all the counties in the Pan Handle; that is to say, all the territory north of a line running due west from initial monument.

The Pan Handle has settled principally by immigration from Colorado and Kansas. The military post located in this county (Fort Elliott) draws its supplies from Fort Dodge, Kansas, now a city on the Arkansas river, and a railroad point on the Atchison, Topeka and Santa Fe road. Many persons have come here originally in the capacity of employes of quartermaster's department and have located here permanently.

The garrison here consists of five companies, and the disbursements gives circulation to money and employment to many citizens.

Many of the wealthiest cattle owners are men who went from the western portion of the Texas frontier after the war closed and located near Puebla, Colorado, and from there have moved down this way as the settlements encroached upon their range. Charles Goodnight, formerly of Palo Pinto county, is one of this number. He is now located in the Grand Canon of Red river, with 15,000 head of cattle. Dick McAnulty, formerly the foreman of J. C. Lynch, of Hubbard's Creek, Shackelford county, Texas, with his partner, is located on the Canadian river, with 25,000 head of cattle.

A Scotchman by the name of Campbell is located at Tuscoso, on the Canadian river, with 15,000 head of graded sheep. In the eastern part of Pan Handle, on the head of the Washita river in Hemphill county, Mr. Fry, Mr. Bullard and Messrs. Anderson have good sized stocks of cattle. Mr. Clark, in the same neighborhood, has about 1000 head of stock horses. It would be impossible to enumerate all the stock men living in and the amount of cattle owned in this country. Persons who have traveled the Canadian river, say that it is lined with ranches, and cattle men are already complaining that it is growing too crowded.

It would be equally impossible to place an exact valuation on the stock interest, but nine million dollars is certainly the lowest valuation to be placed on the cattle interest alone, to say nothing of the horses and sheep. McKany thinks that the value would easily reach five millions, and he is generally correct in such matters.

As to the agricultural resources of the country, one can but make a conjecture as not many farms are yet opened, but a great many are opening, and if the opinion of practical farmers is to be taken for any value, this ought to make one of the finest agricultural regions in the world for small grain. The soil is a black sandy, a very rank growth of grass covers the prairies, and the numerous streams of fresh water which traverse the country furnish large acres of bottom land, where the wild grass will furnish from two to two and one-half tons of hay to the acre.

With good cultivation and good seasons it is thought that the wheat

crop would equal that of any portion of the United States of equal dimensions.

The same reasons that require a judicial district here are applicable to the question of establishing a land district to be attached to Wheeler county.

The difficulty for actual settlers to make filings on their land, provided they are required to go to Henrietta for that purpose, will cause much trouble where a conflict of filing takes place, and as matters now stand in our county, which is organized, a land question cannot be determined unless it comes within the statute of forcible entry and retainer.

Another and very important question, to which your attention and that of the Legislature I wish to call, is the matter of taxation, or rather the authority to collect taxes in the unorganized counties.

The right to collect taxes by the Clay county officials has been heretofore assumed by virtue of the judicial authority given them over the Pan Handle country.

The people are now disputing this authority, and now the issue arises, and the question presents itself, does the attachment of unorganized counties to an organized county for judicial purposes, confer the authority to assess and collect taxes in the unorganized counties by the officials of the organized county to which attached?

I know that the officials of Clay county have heretofore assumed the right to assess and collect the taxes, but this authority has by them been inferred only from the statute giving judicial jurisdiction: but I know of no statute that gives direct authority.

The question then as to whether such authority may be inferred from a general law or by *obiter dictum* is at least very questionable.

It is a fundamental principle of Anglo-Saxon law that the right to govern does not confer the right to tax. That taxation is not a prerogative of the crown, but a grant from the commons to the crown. (For authorities see the Earl of Chatham's speech on taxation of the American colonies.)

This principle has been preserved wherever the common law has been preserved to such an extent that all legislative assemblies of the English speaking people, the British Parliament, the American Congress and the state legislatures are subjected to this limitation, that all tax bills must originate in the house which directly represents the people at large, carrying out the idea that taxation is a grant from the people to the crown, or government.

Then should not the statute which must authorize in express and incontrovertible terms, the levying of tax, be also fully as explicit in regard to the procedure under it, that is to say: the manner of assessing and collecting and who shall be empowered to exercise those functions.

The statute on taxation is very clear and concise as to what shall be taxed and the procedure under it in the organized counties. It is equally clear as to what shall be taxed in the unorganized counties, but how or by whom assessed and collected is left entirely to inference.

This is a new question to me, and one which has presented itself for the first time since I have become a citizen of the Pan Handle it has become one of the vital questions of this section, and for that reason I have been so explicit in detailing to you my views of the question, so that in case the Legislature should grant us a judicial district, the law will not leave this question to a vague inference, but will clearly set forth what taxes may be assessed and collected, and define the officials to perform that function.

The question having already been raised as to the authority of the Clay county officials, the same objection will no doubt be made as to the authority of the Wheeler county officials, unless the statute solves the question on terms clear, concise and indisputable.

I believe that I have set forth the main reasons why we want a judicial

district, a land district, and the tax question, and as this communication has already become somewhat lengthy, I will close by saying that all the petitions now circulating will be mailed to your address as soon as we have them returned to us.

Very respectfully, your obedient servant, MOSES WILEY.
County Attorney Wheeler County.

LETTER FROM CITIZENS OF SMITH COUNTY.

To his excellency O. M. Roberts, Governor of Texas:

The undersigned citizens and taxpayers of Smith county would respectfully represent to your excellency that in February, 1878, John W. Murphy, collector of taxes for said county, departed this life, and owing to circumstances well known to your excellency, and hence not necessary to be mentioned here, there was no qualified collector of taxes for said county until the qualification of Mr. W. S. Wilkerson, in March, A. D. 1879, being a period of more than twelve months. Many of our people had not paid their taxes for 1877 at the time of the death of collector Murphy, and there being no one authorized to receive the taxes for a period of more than one year, they are now called upon to pay two years taxes at a season of the year when there is but little money in the country, the proceeds of the crop of 1878 having already been expended. The collector will very soon advertise and sell property for the payment of the taxes for 1877 and 1878, and, unless some relief is granted, much valuable property will be sacrificed. We know no power except the Legislature to grant relief, and as the Legislature cannot at an extra session act upon any matter except the same be presented for its consideration by the governor, we most respectfully pray your excellency to give this subject your serious attention, and, if consistent with your views of official duty, we would ask that you submit it to the Legislature at its approaching session, with recommendation that the time for enforcing the collection of taxes be extended until October next. Such relief at this particular time will prove of great benefit to an overburdened tax-paying people and in no possible event injure the state or deprive the state of its revenues for more than four months.

Respectfully submitted,

W. S. WALKER,
A. P. MOORE,
THOS W. DODD,
I. L. HOLT,
And eighty-two others.

LETTER FROM GENERAL MANAGER OF TEXAS LAND COMPANY, I. & G. N. R. R.

PALESTINE, TEXAS, May 9, 1879.

His excellency O. M. Roberts, Governor of Texas, Austin, Texas:

DEAR SIR—As the legal representative of the Texas Land Company, I beg leave to call the attention of your excellency to the following condition of affairs in Wheeler county, in which county the Texas Land Company is the principal owner of the private lands situated therein: Wheeler county is attached to Clay county for judicial and other purposes and on March 13, 1879, the county court of Clay county, passed an order for an election to be held in Wheeler county for the organization of that county, based upon the recital in the order of the court that: "Whereas, a petition in conformity with the requirements of law, signed by more

than one hundred and fifty qualified voters and jurors residents of the county of Wheeler. State of Texas, has been presented to this court, praying for the organization of said Wheeler county," etc.

The election was held at the time ordered and returns thereof duly made to the county judge of Clay county. This company, by its attorneys, applied to the district judge (Carroll) for an injunction to restrain the county judge from counting the votes cast at said election and from issuing certificates of election to the parties claimed to have been elected county officers of Wheeler county, at said election, and in support of its action offered evidence in its possession as follows:

1. A certified copy by the county clerk of Clay county, of the original petition for the election in Wheeler county, which showed that only one hundred and forty-six (146) persons in all signed said petition, and not one hundred and fifty as required by law.

2. Affidavits that a considerable number of persons whose names appeared on said petition were not at the time of signing said petition, nor indeed at any other time, citizens of Wheeler county, but were in fact, residents of other counties in the Pan Handle of Texas, while some of them were soldiers in the service of the United States at Fort Elliott and so were not even citizens of the State of Texas.

Not only were we prepared to prove these allegations, but also prove that one of the judges of the said election was not a resident of Wheeler, and we were prepared to establish many other facts equally damaging.

Judge Carroll refused to grant the injunction on the plea of want of jurisdiction.

We then presented these facts to the county judge of Clay county, and while he admitted their force and could not deny their correctness, he refused to take any action against the organization of Wheeler county and has now gone to Wheeler county to assist in its organization.

I have the honor now, on behalf of the Texas Land Company, to present these facts to your excellency, and to offer to substantiate them to your satisfaction, if desired, and most respectfully to protest against the issuance of commissions to the persons claiming to have been elected county officers of Wheeler county.

The simple fact is that the United States having established a military post in Wheeler county, a few people have gathered about the post, composed of a few civilians connected with the military service of the United States, and the remainder for the most part consisting of gamblers, desperadoes and prostitutes—the disreputable followers of all camps—and these people, not satisfied with the plunder of the troops, now wish to commit both grand and petit larceny under the guise of taxation, and to set up a county government which would be only a mockery of justice.

I am sure from the tenor of your messages that you do not believe in legalizing such modes of robbery, and I therefore appeal with the more confidence for such relief as you may be able to grant us in this case.

I now take the liberty of calling the attention of your excellency to the very loose character of existing legislation for the organization of counties

The present law requires the petition for organization to be signed by 150 qualified voters or jurors, while the Revised Statutes (article 672, chapter 2, title 22), requires the signatures of only 150 qualified voters, and neither provides for any scrutiny or proof to determine whether the signatures are *bona fide* and the signers possess the qualifications prescribed. Here is the greatest possible latitude for fraud, and it has been made use of freely.

I would also respectfully suggest that no new county should be organized with less than 150 qualified jurors within its limits, as a county government and courts could not well be supported with a less number of jurors than that. The qualifications for jurors being much higher than that for voters I respectfully suggest that the number of jurors and not

the number of voters should be the test for the organization of new counties.

This is a great evil which needs a prompt remedy, and in case your excellency should call a special session of the Legislature I trust you will deem the matter of sufficient importance to be included among measures presented for legislative action.

I have the honor to be your obedient servant,

IRA H. EVANS,

General Manager Texas Land Company.

LETTER FROM COMMITTEE OF CITIZENS OF HUNTSVILLE.

HUNTSVILLE, TEXAS, June 6, 1876.

To his excellency O. M. Roberts, Governor of the State of Texas:

DEAR SIR—In compliance with your request contained in your favor of 30th ultimo, addressed to L. A. Abercrombie, of this place, we the undersigned beg to submit the following statement:

You request that we inspect the buildings and premises formerly known as the "Austin College," located here and tendered by the citizens of this place to the state for the purposes of a normal school, and make report "what will have to be done to put the premises in order for the school." We presume your object is to arrive approximately at what it would cost to arrange and prepare the grounds and buildings for the conduct of the school for "at least two years." Accordingly we have, with the aid of mechanics and experienced men, visited and inspected the same, and made estimates as near as we could of the cost of enclosing the grounds (five acres) upon which the building stands (the fencing formerly enclosing it being now almost entirely worthless); the improvement of the fine spring of water within a hundred yards of the building; the improvement or clearing up of the grounds (the five acres), and the necessary repairs of the building to fit it for the proper carrying on of the school and the preservation of the property to the state, and have to state that in our opinion the sum of fifteen hundred dollars would cover all these.

The college building is well constructed, of good brick, two stories high, having five rooms in the lower story, with entrance or vestibule and portico in front. It is fifty feet wide by eighty feet long. The upper story also contains five rooms. We herewith hand you a diagram of the building showing you the construction and management of the same and its rooms both in the lower and upper stories. From this diagram you will observe that there is in both stories a large room in the centre, extending from the north to the south wall. This room is 37x46 feet. There are then two rooms on each side of this large room (to the east and west), 18x23 feet, with doors opening into the large room in the centre.

To clear up the grounds and enclose them with fence; to enclose the spring and shelter and protect it and to make such repairs as in our opinion are necessary and important to adapt the building to the purposes of the school and to preserve the property, we think the amount above suggested (fifteen hundred dollars) would be sufficient, economically applied.

In this estimate we do not include blackboards, desks, seats, stoves and such necessary furniture as might and would be needed in the school.

In answer to the question propounded by your excellency, as to how the 68 free pupils can be best boarded, and the cost of the same, we have to say that the college building has no steward's hall connected with it, and is constructed and intended for school purposes alone. There are, however, ample facilities for boarding near the college in private families

who live near the college. Good board can in this way be had, we think, at twelve and a half dollars per month, to include board, lodging, fuel, and lights, but not to include washing. We have no doubt whatever that ample accommodations can be had for board of all the pupils that may patronize the school at these rates and very near the college. There need be no apprehension on this score.

The estimate of fifteen hundred dollars for the purposes above indicated, we feel satisfied would put the school upon a basis for operation with some small sum for furniture necessary for at least two years or more, and could perhaps be refunded to the state in a short time out of the funds arising from the paying patronage of the school.

We beg to assure your excellency that our people feel a very deep interest in this school and will lend all their energies and spare no effort to make it a success, and make it an institution of learning of which the state and your administration may be justly proud.

Very respectfully, your obedient servants,
L. A. ABERCROMBIE,
SANDFORD GIBBS,
BENTON RANDOLPH.

LETTER FROM DR. T. J. HEARD.

GALVESTON, June 11, 1879.

DEAR SIR—Permit me to call your attention to the within act of the incorporation of the Texas Medical College and Hospital, which provides for the indigent sick of the state. The city has vacated the hospital and has transferred their patients to the Sisters' hospital, hence there are no provisions made for any except those belonging to the county and city. It is probable the city council will transfer the city hospital to the faculty of the above named college, and that state patients will be taken care of as contemplated by the charter, in the event of an appropriation of money being made by the Legislature in accordance with the terms of the charter. I beg your consideration of this matter.

With high regard, your obedient servant, T. J. HEARD.

An act supplementary and amendatory to an act entitled "an act to incorporate the Galveston Medical College and Hospital," approved May 13, 1871.

SECTION 1. *Be it enacted by the Legislature of the State of Texas,* That Ashbel Smith, M. D., J. M. Haden, M. D., W. S. Rogers, M. D., J. C. Massie, M. D., J. T. Heard, M. D., Greensville Dowell, M. D., J. M. Callaway, M. D., of Galveston county; R. Flewellen, M. D., of Washington county; R. A. Watkins, M. D., of Navarro county; J. H. Webb, M. D., of Brazos county; W. A. East, M. D., of Travis county; George W. Cupples, M. D., and A. N. Denton, M. D., of Bexar county; B. S. Shelburn, M. D., of Collin county; M. D. K. Taylor, M. D., of Marion county; W. H. Pyle, M. D., of Kaufman county; J. D. Rankin, M. D., of Limestone county; H. C. Ghent, M. D., of Port Sullivan; J. A. Allen, M. D., of Navarro county; Leonidas Hudspeth, M. D., and D. F. Stuart, M. D., of Harris county; R. H. Wallace, M. D., of Waco; U. G. M. Walker, M. D., of Cherokee county; Sampson Eagan, M. D., and W. S. Rayfield, M. D., of Jefferson; W. J. Goodman, of Tyler, Texas, the mayor and attorney of the city of Galveston, and the presiding justice of Galveston county *ex officio*, be, and they are hereby created a board of trustees for

the Texas Medical College and Hospital, and they shall have succession, sue and be sued, plead and be impleaded in all courts whatever, and by said corporate name and style shall be capable in law of contracting and be contracted with, and have all the powers of acquiring, by purchase, donation or otherwise, property, both real and personal, for the purpose of establishing in the city of Galveston, Galveston county, a Medical College and Hospital.

SEC. 2. *Be it further enacted*, That the board of trustees of the Texas Medical College and Hospital shall, at their first meeting, proceed to elect from their number a president, vice-president, secretary and treasurer, and shall have full power and authority to fill all vacancies by death, resignation or otherwise; *provided*, that no one shall be eligible who is not a graduate of some medical college, except those held by *ex officio*; that they shall establish a board of examiners, composed of seven members, who shall proceed to examine all the present professors in the Galveston Medical College, who will and can stand an acceptable examination on the various branches usually taught in medical schools according to the system of *concours*, *i. e.*, by written, oral and declamation, and if a majority of said board report favorably, they shall take their respective chairs; and all chairs or offices made vacant by death, resignation or otherwise, shall be filled according to the same regulations; *provided*, that any one a graduate in a regular medical school shall have the right to apply for a professorship; *and provided further*, notice shall be given in two public newspapers, for at least two months, of such vacancy, and that the same will be filled by the system of *concours or competitive* examination, and a majority of the board shall determine the choice.

SEC. 3. *Be it further enacted*, That the board of trustees shall have full power to make such by-laws, rules and regulations, etc., as they may think best for their own government and the control of Texas Medical college and hospital; may elect their successors in office, every two years, from among their number; may have and use a common seal; and that said board of trustees are invested with power and authority, in conjunction with the faculty of Texas Medical College, to grant diplomas, and are hereby empowered and authorized to confer degrees of doctor of medicine, *ad eundem*, honorary, and such degrees as are conferred by medical colleges in high standing, upon such persons as the faculty of Texas Medical College shall deem meritorious.

SEC. 4. *Be it further enacted*, That seven members, including the president and secretary, except the election of officers and professors, when there must be a secretary, shall constitute a quorum for the transaction of any business, majority of all the trustees present to constitute a quorum.

SEC. 5. *Be it further enacted*, That the board of trustees shall, when sufficient funds shall have been raised, build wards for the treatment of persons disabled by disease or otherwise, male or female, children or adults, and to rent or lease premises until such can be purchased or built.

SEC. 6. *Be it further enacted*, That said board shall erect suitable buildings for clinical teaching, and rooms for general and didactic lectures on all the medical sciences, purchase a library, instruments and apparatus, establish a museum and other things necessary for the treatment and care of all the sick, and the teaching of students in medicine and surgery, pharmacy, chemistry, botany, meteorology, etc., under such rules as they may enact; *provided*, that said faculty shall have the right

to regulate the hours, time and number of the lectures, and the surgical and medical management and direction of said hospital; *it is further provided*, that no session shall be less than four months, of six lectures each day, and that the faculty of medicine and surgery shall have at least seven professors, viz: theory and practice of medicine, principles and practice of surgery, obstetrics and diseases of women and children, materia medica and therapeutics, anatomy, physiology and chemistry; that the school of pharmacy shall consist of the chairs of chemistry, materia medica and therapeutics; that no diploma shall be issued with less than the names of seven professors signed to the same, and all students shall have the right to attend one or more of the professors' lectures, and, upon a satisfactory examination, shall be given a certificate of merit or proficiency of the same.

SEC. 7. *Be it further enacted*, That the said board shall have power to purchase real estate in or out of the city of Galveston, and erect thereon a pest house and insane asylum, for the treatment of infectious or contagious diseases, such as small-pox, cholera, yellow fever, etc., the restraint of insane persons who are dangerous and unruly, and require confinement and restraint.

SEC. 9. *Be it further enacted*, That said board of trustees shall receive and treat in said hospital, also, patients or persons who may be able to pay their own expenses; also, patients from any society, club or association, under such stipulations as may be agreed upon by the persons, club, society or association sending such patients, and the trustees of said hospital.

SEC. 11. *Be it further enacted*, That any one who will donate the sum of twenty thousand dollars shall have the right to send one patient to said hospital, and keep and demise the same right in perpetuity, the board of trustees using only the interest on the same for their maintenance; and any one donating less sums shall have the same privilege in proportion to the sum donated.

SEC. 12. *Be it further enacted*, That all sums of money donated or bequeathed by any individual, societies, clubs, counties or corporate bodies in the State of Texas, shall be kept as an endowment fund, and only the interest used; except the sums that may be donated for the purpose of erecting buildings, purchasing books, demonstrative apparatus, etc. That all lands, goods, etc., except books, instruments and demonstrative apparatus, shall be held and converted into money; also all moneys, over and above the actual and necessary expenses of said institution, shall be used and expended for the enlargement and improvement of the said institution. That no salaries shall be paid the professors in said college, except the usual fees for the tickets of their respective chairs, and no fees shall be paid for their professional services in said hospital during the term of session of medical teaching; but every professor shall be considered a visiting surgeon or physician, and such number as may be required be detailed to attend said hospital daily, and the trustees, upon recommendation of the faculty, shall appoint annually such number of medical students as may be required to perform the duties of assistant surgeons, stewards, apothecaries, etc., in said hospital, under such regulations as may be adopted by the board of trustees. And that the board shall have a record kept of all patients admitted in the hospital department, stating their disease, age, nationality or race, occupation, sex, time in city or state, number of days in hospital, number

cured, number died, number discharged, and number deserted. The books shall be open at all times for inspection to any trustees, or any person who may have relations, friends or employes in the hospital; and there shall be published annually a complete list of all patients treated, and such information concerning the institution as may be of public interest.

SEC. 13. *Be it further enacted*, That this act be in full force from and after its passage, for ninety-nine (99) years, and that all laws or parts of laws inconsistent with this act be and are hereby repealed.

Approved March 29, A. D. 1873.

DEPARTMENT OF STATE, }
AUSTIN, TEXAS. }

I, James P. Newcomb, secretary of state for the State of Texas, hereby certify that the foregoing is a true copy of the original enrolled bill now on file in this office.

{ L. S. } Witness my hand and official seal, at office in the city of Austin, this twenty-ninth day of March A. D. 1873.

Per J. E. OLDRIGHT, *Chief Clerk*.

JAMES P. NEWCOMB,
Secretary of State.

Senator Ledbetter moved to print 200 copies of the message and accompanying documents, and refer the message to finance committee.

Senator Storey moved to amend the pending motion by striking out "200" and inserting "500" copies.

Accepted by Senator Ledbetter.

The portion of the motion with regard to the reference to finance committee was withdrawn by Senator Ledbetter.

The resolution as amended was then adopted by the following vote:

YEAS.

Blassingame,	Gooch,	Ledbetter,	Storey,
Brown,	Hobby,	Martin,	Street,
Buchanan,	Houston,	McCulloch,	Terrell,
Duncan,	Lair,	Moore,	Tilson—18.
Edwards,	Lane,		

NAYS.

Burnett.	Grace.	Motley,	Shannon,
Burton,	Guy,	Patton,	Stewart,
Davenport,	Homan,	Ripetoe,	Swain—12.

Not voting—Ford.

Senator Terrell, chairman of judiciary committee No. 1, submitted the following report:

COMMITTEE ROOM, AUSTIN, June 16, 1879.

Hon. J. D. Sayers, President of the Senate:

Your judiciary committee No. 1, to whom was referred Senate bill No. 17, entitled "An act to provide for the relief of the supreme court and the court of appeals from too great an accumulation of business," have had the same under consideration; they have amended the title by the addition of the words "to establish a court of errors," and have reduced the number of judges from five, as provided in the bill, to three, and made the times of court conform with those of supreme court, and recommend that the bill as amended do pass.

TERRELL, *Chairman.*

The bill just reported was read first time and Senator Stewart moved to print 50 copies of the same.

Senator Burnett moved to amend the motion of Senator Stewart by inserting "200 copies" in lieu of "50 copies."

Accepted by Senator Stewart.

Senator Burnett withdrew his amendment, and the motion of Senator Stewart to print "50 copies" was adopted.

Senate bill No. 10, entitled "An act making an appropriation to defray the contingent expenses of the Senate of the first called session of the Sixteenth Legislature," was taken up and read first time.

Senate bill No. 11, entitled "An act to amend articles 672 and 673 of chapter 2, title 22 of the Revised Civil Statutes of the State of Texas, and to repeal article 675 of said chapter, relating to organized counties," was taken up and read second time.

On motion of Senator Shannon, 50 copies of the bill were ordered printed.

Senator Storey, chairman of committee on finance, submitted the following report:

COMMITTEE ROOM, AUSTIN, June 14, 1879.

Hon. J. D. Sayers, President of the Senate:

Your committee on finance, to whom was referred Senate bill No. 21, entitled "An act to provide for the appointment of a financial agent to act in aid of our members in congress in prosecuting and collecting our claims against the United States," have carefully considered the same, and I am instructed by the committee to report the bill back to the Senate with accompanying amendment, and as amended to recommend its passage, and that fifty copies be printed for the use of the Senate.

STOREY, *Chairman.*

Amendment by committee: Strike out sections 2 and 3 and insert:

"Section 2. That such financial agent shall receive for his expenses and services such compensation as may be allowed by the governor not to exceed ten per cent. on the amount collected and paid into the treasury of the State of Texas through the efforts of such agent; and such compensation shall be paid by warrant drawn by the comptroller on the treasurer of the state."

The bill just reported was read first time, and on motion of Senator Storey fifty copies of the bill and report of committee were ordered printed.

Senator Guy offered the following resolution:

Resolved, That the chairman of the printing committee be authorized to approve the account of E. W. Swindells for copies of the Legislative Record furnished the Senate previous to the adoption of the resolution authorizing a contract for said Legislative Record.

Adopted.

Senator Edwards offered the following resolution:

WHEREAS, the policy heretofore pursued of levying and collecting taxes separately for public free schools or other purposes, and of tying up or segregating any portion of the revenue in any other mode than by appropriations made periodically by the Legislature, is unwise and seriously detrimental to the proper management of the state finances; therefore, be it

Resolved, That the clauses in the tax laws and in the laws regulating public free schools separately levying and collecting one-fourth of the taxes for the maintenance of public free schools, or setting apart one-fourth of the general revenue for such purpose, be repealed before any

appropriation for interest, sinking fund or schools is made by this Legislature.

Senator Burnett moved to refer the resolution to the committee on education.

Lost by the following vote:

YEAS.			
Burnett,	Grace,	Motley,	Shannon,
Burton,	Guy,	Patton,	Stewart,
Davenport,	Homan,	Ripetoe,	Swain—12.
NAYS.			
Blassingame,	Gooch,	Ledbetter,	Storey.
Brown,	Hobby,	Martin,	Street.
Buchanan,	Houston,	McCulloch,	Terrell,
Duncan,	Lair,	Moore,	Tilson—17.
Edwards,			

Not voting—Ford, Lane.

Senator Gooch offered the following amendment:

Strike out the words "for interest."

Adopted.

Senator Patton moved to indefinitely postpone the resolution.

Lost by the following vote:

YEAS.			
Burton,	Guy,	Motley,	Shannon,
Davenport,	Homan,	Patton,	Stewart,
Grace,	Houston,	Ripetoe,	Swain - 12.
NAYS.			
Blassingame,	Gooch,	Ledbetter,	Storey,
Brown,	Hobby,	Martin,	Street,
Buchanan,	Lair,	McCulloch,	Terrell,
Duncan,	Lane,	Moore,	Tilson—17.
Edwards,			

Not voting—Burton, Ford.

Senator Gooch offered the following amendment:

After the word "before" add "or at the same time."

Adopted.

The pending resolution as amended was then adopted by the following vote:

YEAS.			
Blassingame,	Gooch,	Ledbetter,	Storey,
Brown,	Hobby,	Martin,	Street,
Buchanan,	Lane,	McCulloch,	Terrell,
Duncan,	Lair,	Moore,	Tilson—17.
Edwards,			
NAYS.			
Burnett,	Guy,	Motley,	Shannon,
Burton,	Homan,	Patton,	Stewart,
Davenport,	Houston,	Ripetoe,	Swain—13.
Grace,			

Not voting—Ford.

Senator Shannon (by leave) introduced a bill entitled "An act to provide for the time and place of holding the supreme court of the State of Texas."

Read by caption and referred to judiciary committee No. 2.

Also, bill entitled "An act to provide for the time and place of holding the court of appeals of the State of Texas."

Read by caption and referred to judiciary committee No. 2.

Senator Swain introduced a bill entitled "An act requiring sheriffs, clerks and attorneys having accounts against the state in criminal cases to make out the same, in itemized form under oath, and requiring judges, after allowing said accounts, to order them to be recorded in the minutes of the court."

Read by caption and referred to judiciary committee No. 2.

Senator Hobby moved to suspend the rule and take up Senate bill No. 1, entitled "An act to make an appropriation to pay the interest on the public debt, July 1, 1879," and moved a call of the Senate on this motion.

Call sustained.

Roll called; Senate full.

The motion to suspend the rules was carried by the following vote:

YEAS.			
Blassingame,	Ford,	Lane,	Stewart,
Brown,	Gooch,	Ledbetter,	Storey,
Buchanan,	Grace,	Martin,	Street,
Burnett,	Guy,	McCulloch,	Swain,
Burton,	Hobby,	Moore,	Terrell,
Duncan,	Houston,	Motley,	Tilson—27.
Edwards,	Lair,	Shannon,	

NAYS.		
Davenport,	Homan,	Ripetoe—3.

Not voting—Patton.

The bill was then read second time.

Senator Swain offered a substitute for the pending bill.

Ruled out of order as there is a substitute recommended by the finance committee pending.

(President *pro tempore* in the chair).

A message was received from the House announcing that that body has passed the Senate concurrent resolution to expedite the dispatch of business, and House bill No. 9, entitled "An act making an appropriation to defray the contingent expenses of the Sixteenth Legislature, convened on June 10, 1879, in extra session by proclamation of the governor."

(President in the chair).

Considerable debate on the pending question, pending which—

(Senator Homan in the chair).

(President in the chair).

Senator Hobby moved the previous question on the pending question.

Motion seconded and the main question ordered by the following vote:

YEAS.			
Blassingame,	Gooch,	Ledbetter,	Storey,
Brown,	Hobby,	Martin,	Street,
Buchanan,	Lair,	McCulloch,	Terrell,
Duncan,	Lane,	Moore,	Tilson—17.

NAYS.			
Burnett,	Guy,	Motley,	Shannon,
Burton,	Homan,	Patton,	Stewart,
Davenport,	Houston,	Ripetoe,	Swain—13.

Not voting—Ford.

The pending substitute of finance committee was adopted by the following vote:

YEAS.			
Blassingame,	Gooch,	Ledbetter,	Storey,
Brown,	Hobby,	Martin,	Street,
Buchanan,	Lair,	McCulloch,	Terrell,
Duncan,	Lane,	Moore,	Tilson—17.
Edwards,			

NAYS.			
Burnett,	Guy,	Motley,	Shannon,
Burton,	Homan,	Patton,	Stewart,
Davenport,	Houston,	Ripetoe,	Swain—13.
Grace,			

Not voting—Ford.

Senator Swain offered the following amendment:

“That the following sums, or so much thereof as may be necessary, be and the same are hereby appropriated out of any moneys in the treasury not otherwise appopriated, to pay the interest on the public debt, falling due July 1, 1879, and January 1, 1880, and for the fiscal year ending February 28, 1881:

For interest due July 1, 1879.....	\$200,000 00
For interest due January 1, 1880.....	200,000 00
For interest due July 1, 1880.....	200,000 00
For interest due January 1, 1881.....	200,000 00

Senator Storey moved the previous question on Senator Swain’s amend-ment and the engrossment of the bill.

Senator Houston moved a call of the Senate.

Call sustained.

Roll called. Absent—Burton, Ford.

Senator Houston moved to adjourn until 9 o’clock A. M. to-morrow.

Lost by the following vote:

YEAS.			
Burnett,	Guy,	Motley,	Shannon,
Burton,	Homan,	Patton,	Stewart,
Davenport,	Houston.	Ripetoe,	Swain—13.
Grace,			

NAYS.			
Blassingame,	Gooch,	Ledbetter,	Storey,
Brown,	Hobby,	Martin,	Street,
Buchanan,	Lair,	McCulloch,	Terrell,
Duncan,	Lane,	Moore,	Tilson—17.
Edwards,			

Not voting—Ford.

Senator Burton appearing, Senator Ledbetter moved to excuse Senator Ford until 9 o’clock A. M. to-morrow.

The vote on which resulted as follows:

YEAS.			
Blassingame,	Duncan,	Lane,	Storey,
Brown,	Edwards,	Ledbetter,	Street,
Buchanan,	Gooch,	Martin,	Terrell,
Burnett,	Hobby,	McCulloch,	Tilson—19.
Davenport,	Lair,	Moore,	

NAYS.			
Burton,	Homan,	Patton,	Stewart.
Grace,	Houston,	Ripetoe,	Swain— 11.
Guy,	Motley,	Shannon,	

The president declared the motion carried.

Senator Houston made the point of order that it required a two-thirds vote to excuse a member while the Senate is under a call.

The point of order was sustained by the chair.

Senator Edwards offered the following resolution:

Resolved by the Senate, the House of Representatives concurring, That the treasurer of the state be and he is hereby instructed to draw a requisition upon the comptroller for the amount of sinking fund appropriated by "An act to make appropriations for the support of the state government for the fiscal years ending August 31, 1877, 1878, and for additional period of time ending December 31, 1878, passed twenty-first of August, 1876," and that the treasurer be further instructed to invest said sinking fund in the outstanding bonds of this state as rapidly as possible, and maintain the ability of the state to pay cash on interest and current expenses; and that the resolution take effect from and after its passage.

Referred to committee on finance.

Senator Gooch moved to suspend the call.

Senate refused to suspend the call.

Senator Patton called up House bill No. 9, reported from the House this morning, "making an appropriation to pay the contingent expenses of the special session of the Sixteenth Legislature."

Senator Ledbetter moved to refer the bill to committee on finance.

Withdrawn.

Bill read first time.

Senator Motley moved to suspend the rules and place the bill on its second reading.

Carried by the following vote:

YEAS.			
Blassingame,	Gooch,	Lane,	Ripetoe,
Brown,	Grace,	Ledbetter,	Shannon,
Buchanan,	Guy,	Martin,	Storey,
Burnett,	Hobby,	McCulloch,	Street,
Burton,	Homan,	Moore,	Swain,
Davenport,	Houston,	Motley,	Terrell,
Edwards,	Lair,	Patton,	Tilson—28.

NAYS—none.

Not voting—Duncan, Ford, Stewart.

Bill read second time and passed to a third reading.

Senator Storey moved a suspension of the rules to place the bill upon its third reading.

Carried by the following vote:

YEAS.			
Blassingame,	Gooch,	Ledbetter,	Shannon,
Brown,	Grace,	Martin,	Stewart,
Buchanan,	Guy,	McCulloch,	Storey,
Burnett,	Hobby,	Moore,	Street,
Burton,	Homan,	Motley,	Swain,
Davenport,	Houston,	Patton,	Terrell,
Edwards,	Lair,	Ripetoe,	Tilson—28.

NAYS—none.

Not voting—Duncan, Ford, Lane.

Bill read third time and passed by the following vote:

YEAS.			
Blassingame,	Buchanan,	Davenport,	Grace,
Terrell,	Burnett,	Edwards,	Guy,
Brown,	Burton,	Gooch,	Hobby,

Homan,
Houston,
Lair,
Ledbetter,

Martin,
McCulloch,
Moore,
Motley,

Ripetoe,
Shannon,
Stewart,
Storey,

Street,
Swain,
Terrell,
Tilson—28.

NAYS—none.

Not voting--Duncan, Ford, Lane.

Senator Terrell (by leave) introduced a bill entitled "An act making an appropriation for services rendered by and supplies furnished to troops called out by Gov. Hubbard to suppress insurrection at El Paso on the fifteenth of December, 1877."

Referred to the committee on finance.

Senator Houston moved to adjourn until 9 o'clock to-morrow morning.

Senator Ledbetter moved a call of the Senate on this motion.

Motion to adjourn ruled out of order.

(Senator Motley in the chair.)

Senator Patton moved to adjourn until 9 o'clock A. M. to-morrow.

(President in the chair.)

Senator Patton's motion to adjourn ruled out of order.

(Senator Patton in the chair.)

Senator Burnett moved a suspension of the call.

Carried.

Senator Houston renewed the call.

Call sustained.

Roll called.

Absent—Ford.

Senator Houston moved to adjourn until 9 o'clock A. M. to-morrow.

(President in the chair.)

The motion of Senator Houston to adjourn was ruled out of order.

Senator Ford appearing the Senate was announced full.

Senator Storey, by unanimous consent, withdrew the previous question.

Senator Swain withdrew his amendment to the bill.

Senator Hobby offered the following amendment:

Substitute for caption—"An act supplemental to 'an act to make an appropriation for the support of the state government for the years beginning March 1, 1879, and ending February 28, 1881,' approved April 23, 1879, and providing for the payment of a portion of the interest therein vetoed."

Senator Duncan moved the previous question on the pending amendment and the engrossment of the bill.

Motion seconded and main question ordered by the following vote:

YEAS.

Blassingame,
Brown,
Buchanan,
Duncan,
Edwards,

Ford,
Gooch,
Hobby,
Lair,
Lane.

Ledbetter,
Martin,
McCulloch,
Moore,

Storey,
Street,
Terrell,
Tilson—18.

NAYS

Burnett,
Burton,
Davenport,
Grace,

Guy,
Homan,
Houston,

Motley,
Patton,
Ripetoe,

Shannon,
Stewart,
Swain—13.

Senator Hobby's amendment was adopted by the following vote:

Blassingame,	Ford.	YEAS.	Ledbetter,	Storey,
Brown,	Gooch,		Martin,	Street,
Buchanan,	Hobby		McCulloch,	Terrell,
Duncan.	Lair.		Moore,	Tilson--18.
Edwards,	Lane.			

Burnett,	Guy,	NAYS.	Motley,	Shannon,
Burton,	Homan,		Patton,	Stewart,
Davenport.	Houston,		Ripetoe,	Swain--13.
Grace,				

The bill was then ordered engrossed by the following vote:

Blassingame,	Edwards,	YEAS.	Lane,	Storey,
Brown,	Ford.		Ledbetter,	Street.
Buchanan,	Gooch.		Martin,	Terrell,
Burton.	Hobby,		McCulloch,	Tilson--19.
Duncan,	Lair,		Moore,	

Burnett,	Guy,	NAYS.	Motley,	Shannon,
Davenport,	Homan,		Patton,	Stewart,
Grace,	Houston,		Ripetoe,	Swain--12.

Senator Hobby moved to suspend the rules and place the bill on its third reading.

Lost by the following vote, it taking four-fifths to suspend:

Blassingame,	Edwards,	YEAS.	Lane,	Storey,
Brown,	Ford,		Ledbetter,	Street,
Buchanan,	Gooch,		Martin,	Terrell,
Burnett,	Hobby,		McCulloch.	Tilson--19.
Duncan,	Lair,		Moore,	

Burnett,	Guy,	NAYS.	Motley,	Shannon,
Davenport,	Homan,		Patton,	Stewart,
Grace,	Houston,		Ripetoe,	Swain--12.

Senator Ford (by leave) introduced a bill entitled "An act amendatory of and supplementary to 'an act amending and supplementing articles 4662, 4663, 4664, 4665, 4666, 4667 and 4668, inclusive, of chapter 1 of title 94 of the Revised Civil Statutes,' adopted February 21, 1879."

Read by caption and referred to the committee on finance.

On motion of Senator Brown the Senate adjourned until 10 o'clock tomorrow morning.

SEVENTH DAY.

SENATE CHAMBER,
AUSTIN, TEXAS, June 17, 1879. }

Senate met pursuant to adjournment; president in the chair. Roll called; quorum present. Prayer by the chaplain.

On motion of Senator Burton, the reading of the journals of yesterday was dispensed with and same adopted.

Senator McCulloch presented the following invitation from President Thomas S. Gathright, of the Agricultural and Mechanical College of Texas at Bryan: